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SERIES I No. 26

OFFICIAL GAZETTE

GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

EXTRAORDINARY

No. 3

GOVERNMENT OF GOA

Department of Finance
Debt Management Division

Notification

7/27/2020-Fin(DMU)/1088

In exercise of the powers conferred by section 38 of the Banning of Unregulated Deposit Schemes Act, 2019 (Central Act No. 21 of 2019), the Government of Goa hereby makes the following rules, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Goa Banning of Unregulated Deposit Schemes Rules, 2022.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*— (1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Banning of Unregulated Deposit Schemes Act, 2019 (Central Act No. 21 of 2019);

(b) "Form" means a form appended to these rules;

(c) "Government" means the Government of Goa;

(d) "Officer" means the officer appointed by the Government under sub-section (2) of section 7 of the Act.

3. Words and expressions used herein and not defined but in the Act shall have the same meanings respectively assigned to them in the Act.

Ceiling for self-help group.— The periodic payment of amount upto Rs. 1000/- per month shall be the ceiling limit for a member of self-help groups for the purposes of sub-clause (j) of clause (4) of section 2.

4. *Provisional attachment of property by Competent Authority under section 7.*— (1) Where the Competent Authority or the Officer is satisfied that the facts of the case necessitate identification of the property or asset acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker, the Competent Authority or the Officer, may procure such details from police authorities or any other authority as deemed fit by him or from public through a public notification seeking the details of property or asset.

(2) a. Where the information is sought from the public through the public notification under sub-rule (1), an advertisement may be released in two prominent local newspapers within a period of fifteen days of receipt of report from the police authorities informing that a prima facie case exists.

b. If the Competent Authority, after collecting additional information, is of the

opinion that some additional properties of the deposit taker are required to be attached, he may do so in accordance with section 7 of the Act.

(3) In order to conduct investigation or inquiry under sub-section (4) of section 7 of the Act the Competent Authority may issue following notices, namely:—

(i) notice for initiation of action in Form 'A' hereto;

(ii) notice for additional information, if any, in Form 'B' hereto;

(iii) final notice for personal attendance of deposit taker or other persons and witnesses in Form 'C' hereto.

(4) The order of Provisional attachment shall contain to the extent possible,—

(i) the details of the complaint;

(ii) the details of the deposit taker or financial entity;

(iii) inquiry report from the police;

(iv) report received from Regulator, if any;

(v) complaints received from public;

(vi) details of the proceedings, reasons for attaching the property and effective date of attachment;

(vii) copies of the notices issued or served and delivery proof, if any;

(viii) summary of the findings;

(ix) details of property attached, bank account numbers, money attached, securities including shares and bonds, attached movable property, approximate value of such property, and in case of immovable property the extent of land, survey numbers and boundaries of such property and name of the title holder of such property; and

(x) conclusion; and

(xi) evidence (attach the evidence or proof).

(5) The Competent Authority shall conduct the proceedings under sub-sections (4) and

(5) of section 7 of the Act strictly following due process of law.

5. *Powers relating to absconding persons.*— Where the Competent Authority or the Officer is satisfied or has reason to believe that a person in respect of whom action is contemplated under the Act has absconded or is concealing himself, the Competent Authority or the Officer shall make a report in writing to the Designated Court for further course of action.

6. *Power to seize property.*— Where the Competent Authority or the Officer is satisfied or has reason to believe that any property which is liable to be attached under the Act is likely to be concealed, transferred or dealt in any manner which will result in defeating the purposes of the Act, he may direct the police officer to seize such property or make an order to freeze such property where it is not practicable to seize such property and after such direction or order such property shall not be transferred or otherwise disposed of or dealt with by any person.

7. *Power to appoint legal practitioner etc.*— The Competent Authority or the officer shall be entitled to use the services of the Directorate of Prosecution, Directorate of Accounts, Government Advocates, Government counsels or any other person counsels whose services are necessary for possession and realisation of the assets.

8. *Power of the Government to empanel agencies for forensic or digital audit, valuation or sale of assets.*— (1) The Government may empanel by Notification,—

(a) agencies for valuation of assets and for assisting in selling of assets to prospective buyers; and

(b) forensic auditors and digital auditors for audit of money trail.

(2) The Competent Authority shall utilise the services of such agencies and auditors for valuation of assets, for selling of assets and for forensic and digital audit of money trail.

(3) The Competent Authority may also utilize the services of forensic auditors or

digital auditors empanelled by the Indian Banks' Association for Audit of Money trail till the Government empanels such agencies, wherever felt required.

9. *Valuation reports to be obtained while releasing properties attached.*— The Designated Court while according permission to deposit the fair value of the property in lieu of the attachment under sub-section (1) of section 17 may obtain valuation reports from at least two empanelled Valuers.

By order and in the name of the Governor of Goa.

Pranab G. Bhat, Under Secretary, Finance (Budget-II).

Porvorim, 29th September, 2022.

FORM 'A'

[See rule 4 (3)]

Notice for initiation of action

To

Sir/Madam,

Based on the information or reports received it is prima facie apparent that the subject financial entity or deposit taker is involved in the act which are cognizable under the provisions of Banning of Unregulated Deposit Scheme Act, 2019,

The Competent Authority/Officer appointed to assist the Competent Authority is under sub-sections (3) and (4) of the section 7 of the Banning of Unregulated Deposit Scheme Act, 2019 have the same powers as vested in a civil court under the Code of Civil Procedure, 1908 while conducting investigation or inquiry in respect of the unauthorised deposit schemes or defaults under the deposit schemes in contravention of section 3 of the said Act. In exercise of the powers under the said Act the following is ordered:

In connection with the subject, you are required to submit the following:

- (a) Details of financial entity, registration of the entity, permissions to accept deposits from regulators if any, including unique identification number or Registration and PAN.
- (b) Details of the Promoters, Managing Directors, Directors, Partners, Management persons, etc., including unique identification number or Registration and PAN.
- (c) Latest audited Balance Sheet and Profit and Loss accounts filed.
- (d) Details of the Regulator and the copy of registration certificates, permissions to undertake the activity of deposit taking.
- (e) Full details of the Scheme of Deposits under which deposits are being collected from public.
- (f) List of the Depositors along with deposit accepted, rate of interest, maturity date, terms of repayment of interest and principle, any other promises or assurances or commissions payable, etc.
- (g) Details of defaults if any in repayment of Deposit or any specified service promised against such deposit along with date of default.
- (h) Total amount in default and number of depositors affected, if any.
- (i) Reasons for default, if any.
- (j) Steps taken or proposed to repay the amount in default.
- (k) Details of the Bank accounts of the financial entity with latest balance in the accounts.

You are hereby required to submit the full details listed above and duly attested, to my office on _____ at _____ either in person or through representative duly authorised in writing in this behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter.

In case you fail to comply with the orders of the undersigned, it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex-parte order.

(Note: *Strike whichever is not applicable)

()

Date:

FORM B
(See rule 4)

Notice for additional information

To

Sub:- M/s

Sir/Madam,

Ref: Notice in Form-A

dated: _____.

Based on the information or reports received it is prima facie apparent that the subject financial entity or deposit taker is involved in the Act which are cognizable under the provisions of section 3 of the Act.

The Competent Authority or the Officers appointed to assist the Competent Authority under sub-section (3) and (4) of section 7 of the Act have the same power as vested in a civil court under the Code of Civil Procedure, 1908 while conducting investigation or inquiry in respect of the unauthorised deposit schemes or defaults under the deposit schemes under section 3 of the Act. In exercise of the powers under the Act the following is ordered:

(A) Certain further details or clarifications or additional information listed here below are required in connection with the Deposit Scheme* or Chitfunds Scheme* or Default in repayment* of Deposit or any specified service promised against such deposit on which I would call for additional information, under the deposit scheme/s by the financial entity which please furnish immediately.

- i.
- ii.
- iii.
- iv.

(B) You are hereby required to attend my office on _____ at _____ either in person or through representative duly authorised in writing in this behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter.

(C) In case you fail to comply with the orders of the undersigned, it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex-parte order.

(Note: *Strike whichever is not applicable)

Date:

Yours faithfully,

FORM C
(See rule 4)
Final Notice

To

Sir /Madam,

Sub: M/s

Ref: Notice in Form A dated: _____.

Notice in Form B dated: _____.

Based on the information or reports received it is prima facie apparent that the subject financial entity or deposit taker is involved in the Act which are cognizable under the provisions of section 3 of the Act.

The Competent Authority of the Officers appointed to assist the Competent Authority are under sub-section (3) and (4) of section 7 of the Act have the same power as vested in a civil court under the Code of Civil Procedure, 1908 while conducting investigation or inquiry in respect of the unauthorised deposit schemes or defaults under the deposit schemes under Section 3 of the Act. In exercise of the powers under the Act, the following is ordered:

(A) As per Notice in Form A calling details and documents No. _____ dated _____ you were asked to submit the details and documents but you have failed to submit the details in document called for.

and/or

(B) As per Notice in Form B you were asked to furnish certain additional documents or details and also to attend my office on _____ at _____ either in person or through a representative duly authorised in writing on his/her behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter, but you have failed to appear before me along with the details and document called for.

(C) In view of your not complying with the orders of the undersigned, a final opportunity is given to you to submit the details and document called for and/or appear before me along with the details and document called for on at _____ failing which it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex-parte order.

(Note: *Strike whichever is not applicable)

Yours faithfully,

Date:

By Order and etc.....

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